

### REMARKS

Claims 1-6, 8, 10 and 11 are all the claims pending in the application. Claim 1 is amended.

Entry of the amendment is requested on the basis of the accompanying RCE. Further, Applicants request the Examiner to contact the undersigned for an interview prior to first Office Action so that convergence toward patentable subject matter in the spirit of compact prosecution can be achieved.

### *Claim Rejections - 35 USC § 103*

**Claims 1-6, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millikan (U.S. 2003/0105667) in view of Avallone et al. (U.S. 2002/0147642) and in view of Sloane (U.S. 5,918,211). This rejection is traversed for at least the following reasons.**

#### **Amended Claim 1**

Applicants have amended claim 1 to clarify that the claimed output device is “for supplying a *single message* specific to the individual detected consumer, providing all specific offers available to the individual detected consumer in relation to potential purchases at the location whereby the detected consumer is able to receive offers at the location.” Also, at the end of the claim, it is specified that purchases made by the consumer are priced at the EPOS terminal in accordance with offers specific to and previously supplied to that consumer “without any responsive action by the detected consumer prior to presentation at the EPOS terminal other than carriage of goods for purchase to the EPOS terminal.”

Amended claim 1 clearly defines a system in which offers specific to an individual detected consumer are assembled into a *single message* which is supplied to the individual detected consumer without requiring interaction by the detected consumer, in which the offers specific to the individual detected consumer are similarly and additionally transmitted to an EPOS terminal so that purchases made by the consumer are in accordance with the offers contained in the single message without the consumer being required to take any action responsive to the offers prior to presentation at the EPOS terminal other than to carry goods for purchase to the EPOS terminal.

None of the cited references individually discloses this combination of features nor would it be obvious to a skilled person to make such a combination from the disclosures in these documents. The skilled person would not have the motivation to move from the teachings in any of the cited documents toward the claimed combination, which has significant advantages over all of the systems disclosed in the prior art, as identified in the specification.

**Millikan**

The Examiner points to a passage in Millikan that does briefly mention the possibility of performing a targeting operation with respect to an individual consumer. However Millikan involves delivering messages by video or audio presentation to consumers at various locations throughout a store and for privacy reasons Millikan wishes to present information appropriate to the majority of customers within the store at any particular time. Millikan does not suggest transmission of a *single message* containing all offers specific to *an individual consumer* and the similar and additional transmission of those specific offers for each consumer to an EPOS terminal in the manner defined in amended claim 1.

**Sloane**

The Examiner states that transmission of offers to the EPOS terminal would be obvious in view of Sloane. However Sloane requires the consumer to carry a portable scanner throughout the store operable by the consumer each time that an item is chosen for purchase to take advantage of promotional product discounts. Amended claim 1 makes it clear that in the operation of the system according to the invention no responsive action is required on the part of the consumer prior to presentation at the EPOS terminal other than the normal selection and carriage of goods to the terminal. Moreover, neither Millikan nor Sloane suggest compilation of a *single message* containing all offers specific to an individual consumer let alone the similar transmission of such a compilation of offers to both the detected consumer and an EPOS terminal.

Millikan proposes to broadcast messages in relation to products at various locations throughout a store. However, the person having ordinary skill in the art would not be motivated to devise a system by which a complete compilation of offers specific to an individual consumer would be supplied individually to each consumer in a *single message*. Sloane simply teaches

offer of general promotions to consumers and requires recordal of discounts through carriage of a portable scanner in order to enable a consumer to take advantage of promotional offers. There is nothing in Millikan or Sloane to motivate the skilled person to transmission of a single compilation of offers both to a detected consumer and to an EPOS terminal in the manner defined in amended claim 1.

### **Avallone**

The Examiner cites Avallone as disclosing old and well known technology such as networking capabilities including multiple servers, remote and local services which can be used with advertising techniques discloses by Sloane. However, neither Avallone nor Millikan discloses supply of specific offers to an identified customer in a *single message*. Moreover, Avallone, like Millikan, does not suggest transmission of individually supplied specific offers at the same time on to an EPOS terminal to enable acceptance of the specific offers without requiring the detected individual consumer to take action before presenting at the EPOS terminal.

Avallone is concerned with tracking the location of a customer within a store and delivering selected messages to the customer when the customer reaches appropriate locations. There would be no motivation to the skilled person to devise a system for assembling offers specific to a detected consumer into a *single message* for delivery to the consumer and similar transmission to an EPOS terminal in the manner defined in amended claim 1.

Further, Millikan does not specifically disclose the common knowledge step of downloading coupon/special offer information to the retail transaction terminals so that a consumer that receives a special offer can actually obtain the offer.

### **Official Notice**

In a previous Office action Examiner took Official Notice that it is old and well known in the art to associate coupon and other customer incentive databases with a POS machine such that coupons are applied or downloaded to the POS for example upon swiping a customer/loyalty card. Applicants traversed this holding and requested proof that the teachings were prior art, as alleged.

The Examiner responds by stating “To adequately traverse such a finding of official notice, an applicant must specifically point out the supposed errors in the examiner's action, which would include **stating why the noticed fact is not considered to be common knowledge or well-known in the art**. See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241 (“[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”) (MPEP 2144.03(c)).

Applicants do “demand” that the Examiner produce authority, as required by MPEP 2144.03(c). The Examiner has no basis for asserting that the alleged subject was known prior to August 18, 2002, more than one year prior to the priority date of the present application.

Contrary to the Examiner’s assertion, Applicant has traversed the Examiner's assertions of official notice with respect to claim 10; therefore, the common knowledge or well-known in the art statements cannot be taken to be admitted prior art.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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**23373**

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